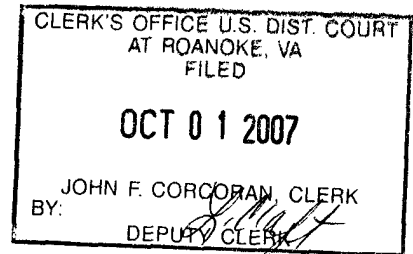


IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ROANOKE DIVISION



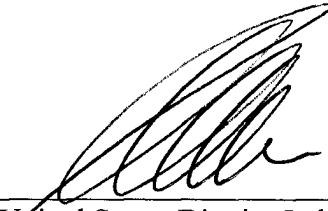
DEWAYNE ANTHONY SHIFFLETT,)	Civil Action No. 7:06-cv-00497
Petitioner,)	
)	<u>FINAL ORDER ADOPTING</u>
v.)	<u>REPORT AND RECOMMENDATION</u>
)	
UNITED STATES OF AMERICA,)	By: Hon. Samuel G. Wilson
Respondent.)	United States District Judge

Dewayne Anthony Shifflett brings this action under 28 U.S.C. § 2255, alleging that his plea was not knowing and voluntary and that counsel provided ineffective assistance on several grounds, including by failing to file an appeal upon Shifflett's request. Respondent filed a Motion to Dismiss, and by Order entered April 26, 2007, the court referred the matter to United States Magistrate Judge Michael F. Urbanski for an evidentiary hearing to determine whether petitioner requested that his attorney file an appeal. The Magistrate Judge conducted an evidentiary hearing on July 31, 2007. The Magistrate Judge filed a Report and Recommendation pursuant to 28 U.S.C. § 636(b)(1)(B), finding that all of Shifflett's claims were without merit and recommending that Respondent's Motion to Dismiss be granted and that Shifflett's motion for relief pursuant to 28 U.S.C. § 2255 be dismissed. Both Shifflett himself and his current counsel filed objections, reiterating the arguments made in Shifflett's pleadings and at the evidentiary hearings. Having reviewed the Report and Recommendation, the objections thereto, and relevant portions of the record de novo, in accordance with 28 U.S.C. § 636(b)(1), the court agrees with the Magistrate Judge's recommendation.

Accordingly, it is hereby **ORDERED** and **ADJUDGED** that the Magistrate Judge's Report and Recommendation is **ADOPTED** in its entirety, that Respondent's Motion to Dismiss is **GRANTED**, and that Shifflett's suit is **DISMISSED** and **STRICKEN** from the active docket of the court.

The Clerk of Court is directed to send copies of this Order to Petitioner and counsel of record for Respondent.

ENTER: This 30th day of September, 2007.


United States District Judge